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ONE HUNDRED NINTH CONGRESS

Congress of the United States

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COMMITTEE ON THE JUDICIARY

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May 5, 2005

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Mr. David M. Walker
Comptroller General
Government Accountability Office
441 G St. NW, Room 7100
Washington, DC 20548

Dear Mr. Walker:

We are writing to request that you study the efficacy, fairness, and solvency of various trust funds and programs established to compensate individuals for harm caused by mass torts and other exposure to dangerous materials and products.

We would like you to review the following:

- Programs created by Congress to compensate individuals for diseases caused by toxic or radio active exposure, including the Black Lung program,¹ the Energy Employees, Occupational Illness Compensation Program Act (EEOICPA),² and the Radiation Compensation Act (RECA).³

¹This Coal Mine Health and Safety Act (CMHSA or Black Lung), 30 U.S.C. §901 *et seq.*, program was created to provide “black lung benefits” to miners who were suffering from or who died due to “complicated pneumoconiosis.”

²The Energy Employees Occupational Illness Compensation Program Act (EEOICPA), 42 U.S. C. §7384-7385, established a compensation program to provide \$150,000 lump sum payment and prospective medical benefits to covered employees suffering from certain illnesses developed as a result of their exposure to radiation, beryllium, or silica while performing duties for the Department of Energy.

³The Radiation Exposure Compensation Act (RECA), 42 U.S.C. §2210, was created to provide compensation to individual who contracted certain types of cancers and other serious diseases as a result of exposure to radiation either from above ground testing of nuclear weapons or exposure while working in underground uranium mines.

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- Trust funds facilitated by legislative acts⁴ and bankruptcy court orders, such as Johns-Mansville Personal Injury Settlement Trust (1988), J.T. Thorpe (2002), Shook & Fletcher (2002), Combustion Engineering (2003), National Gypsum (1993), UNR Industries (1989), Amatex (1990), Fuller-Austin (1998), Celotex Asbestos Settlement Trust (1998), Eagle-Pilcher (1997), Western MacArthur (2003), Babcock & Wilcox (2004), Delaware Insulations (1994), Keene Corp. (1996), DII Industries (2003), Fort-Eight Insulations (1995), United States Lines (1993), Utex (2004), Raytech (2000).

Among other things, we would ask that you review the following with respect to these programs and trust funds:

1. Whether any beneficiaries received less than full compensation or payment for their claims, and the extent of such shortfalls.
2. The length of time and costs needed to set up the programs and trusts, as well as the ongoing costs of administering.
3. Whether there were any delays in beneficiaries receiving compensation payments, and the extent of such delays. In this regard we are interested in learning whether any potential beneficiaries passed away while their claims were pending, or were unable to receive full and adequate care while their claims were pending.
4. Whether any beneficiaries have been denied claims who would have otherwise been eligible to receive payment under the tort system or other applicable law, and the extent of such shortfalls.
5. Whether there was any evidence that the compensation systems discriminated based on race, gender or other factor.
6. The nature and extent of other complaints and concerns expressed by potential beneficiaries.

Your review is both important and time sensitive, as there are a number of proposals pending before Congress which would create trust funds to pay asbestos claims. As a result, we would like to receive a copy of your report by no later than August 1, 2005, if at all possible.

If you have any questions regarding this request, please contact Perry Apelbaum or Michone Johnson at x56504. Thank you for your prompt consideration of this matter.

Sincerely,



⁴The Bankruptcy Code authorizes asbestos trusts (11 U.S.C 524 (g) & (h)).

Robert W. Walker

Billy Scott

Chris Van Holler

Linda J. Sanchez

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Paul Jackson Lee

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